

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:96-cr-010

v.

Judge Michael H. Watson

MICHAEL EUGENE SAVAGE,

Magistrate Judge Michael R. Merz


Defendant.

ORDER

The Court has reviewed the Supplemental Report and Recommendations (“R&R”) of United States Magistrate Judge Michael R. Merz, ECF No. 120, to whom this case was referred pursuant to 28 U.S.C. § 636(b). No objections were filed thereto, and the time for filing such objections under Federal Rule of Civil Procedure 72(b) has expired. Therefore, the Court **ADOPTS** the Supplemental R&R.

Accordingly, Defendant’s § 2255 Motion to Vacate, ECF No. 96, is **DENIED**. A certificate of appealability is **GRANTED** on the question whether the logic of the *Bousley v. United States*, 523 U.S. 614 (1998) requirement of proof of actual innocence extends to foregone counts of equal seriousness with the count of conviction or only to more serious foregone counts. The Clerk shall enter judgment.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT